

ORIGINAL
FILE

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. 92-114
)	
Robert B. Taylor)	File No. BRH-880926UJ
Jupiter, Florida)	
)	
For Renewal of Station WTRU(FM))	
)	
Jupiter Broadcasting, Corp.)	File No. BPH-890103MD
Jupiter, Florida)	
)	
For A Construction Permit)	

To: Administrative Law Judge
Walter C. Miller

**MASS MEDIA BUREAU'S COMMENTS ON FIRST
PETITION TO ENLARGE ISSUES AGAINST ROBERT B. TAYLOR**

Respectfully submitted,
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Chief, Mass Media Bureau

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Chief, Hearing Branch

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June 10, 1992

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Summary

Jupiter Broadcasting Corporation, the challenger in this comparative renewal proceeding, filed a petition to enlarge seeking addition of 13 issues against the renewal applicant, Robert B. Taylor. The Mass Media Bureau supports addition of local public file and related misrepresentation issues and AM station silence authority issues. The Bureau opposes all of the other issues for reasons stated in our Comments.

**MASS MEDIA BUREAU'S COMMENTS ON FIRST
PETITION TO ENLARGE ISSUES AGAINST ROBERT B. TAYLOR**

1. On May 26, 1992, Jupiter Broadcasting Corp. (JBC) filed its First Petition to Enlarge Issues Against Robert B. Taylor (Taylor). JBC seeks a total of 13 issues against Taylor. The Mass Media Bureau submits the following comments.

2. Public File Issues. JBC seeks a public file issue and a related misrepresentation issue against Taylor. In support, JBC furnishes sworn statements of individuals who went to the station on three separate occasions in 1989 and 1990 to review the public file, as well as statements of former employees. The statements indicate either that no public file was available or that the materials provided were minimal. Additionally, although the licensee produced additional materials as a result of JBC's contacting the station and owner, even those materials were insufficient. In sum, JBC alleges that considering the totality of the documents provided, the licensee's public file fails to comply with the requirements § 73.3526 of the Commission's Rules. Specifically, it does not include, inter alia, any issues/programs lists, ownership reports for years 1981-89, or Broadcast EEO Reports (Form 396) other than for 1990. The related misrepresentation issue is predicated upon Taylor's unwarranted affirmative response to the inquiry in the renewal application as to whether the required documentation was placed in the station's public file at the appropriate times.

3. Taylor is a licensee of the Commission and the Commission's Policy Regarding Character Qualifications in

Broadcast Licensing (Character Qualifications), 102 FCC 2d 1179, 1191 (1986) mandates that compliance with FCC Rules will bear on basic qualifications. Although the Commission now requires very little record keeping of its licensees, "the preparation and maintenance of 'issues/programs' lists for inclusion in the station's public inspection file remains a minimal requirement for operating in the public interest." Safe Broadcasting Corporation, 5 FCC Rcd 4917, 4918 (Rev. Bd. 1990), subsequent history omitted. Thus, Taylor's failure to include the required issues/programs lists goes to the very heart of his obligations as a licensee. Moreover, the absence of such information is prejudicial to JBC. Cf. Felix H. Morales, 58 FCC 2d 642 (1976). The seriousness of this specific noncompliance is exacerbated by the absence of other required materials and the general unavailability of the station's local public file. Accordingly, the Bureau supports addition of a public file issue. Furthermore, in light of the overwhelming inadequacy of the station's local public file, the Bureau supports addition of the related misrepresentation issue, absent an adequate explanation by Taylor.

4. FM Station Silence Authority Issues. JBC alleges that Taylor voluntarily kept Station WTRU(FM) dark for two of the seven years he has been the licensee and that he has misrepresented facts with regard to the station's silence. According to JBC, Taylor's April 30, 1987, request for silence authority was totally disingenuous in that it falsified the date

the station went silent, it falsely intimated that silence was required by the operation of a new Homestead, Florida, station, and lacked candor in using the Melbourne, Florida, rule making proposal as another reason why the station could not remain operating. JBC claims, based on the report of a process server, that the station was silent at least five days earlier than Taylor reported to the Commission. JBC also claims that Taylor could have effectuated the channel change necessitated by the Homestead station at an earlier time since he was required to be reimbursed for the costs of the channel change by the Homestead station. Additionally, JBC asserts that the Melbourne rule making was not an event beyond Taylor's control because he was a proponent of the change. JBC further alleges that in his further requests seeking extensions of WTRU's silence authority, Taylor lacked candor with the Commission. Finally, JBC claims that the station lacked silence authority for the month prior to returning to the air. In summary, JBC asserts that WTRU's two years of silence were caused solely by Taylor for his financial benefit, because otherwise he would have continued to lose money from operation of the station.

5. The Bureau opposes addition of the requested issues. Although Taylor did cite both the Homestead and Melbourne proceedings as partial reasons for his request for silence authority, he also was explicit in acknowledging that his present financial condition did not permit him to absorb the "potentially devastating impact of repeated disruptions of its

operations and the need to establish, and then reestablish, an identity on a new channel." These reasons appear to meet the requirements of 47 C.F.R. § 73.1740 and provide a valid and truthful basis for Taylor to have requested silence authority initially and also a justification for remaining off the air. Additionally, an extension of his silence authority was warranted until his modification application was granted and construction completed. The Bureau submits that Taylor was less than candid in his July 28, 1988, extension request where he indicated that his pending modification application had "not yet been granted" when, in fact, it had been returned as "unacceptable for tender" on June 23. However, since Taylor filed a subsequent modification application on August 31, 1988, in which he explained that the earlier modification application had been returned, it does not appear he intended to deceive the Commission.¹ The critical fact is that he was continuing to pursue a modification application to enable him to resume operations and did return to the air. Absent a demonstrated intent to deceive, no further inquiry is required with respect to this matter. See Fox River Broadcasting, Inc., 93 FCC 2d 127, 129 (1983). Notwithstanding the Bureau's opposition to addition of the requested issues, we agree that the matter of Station WTRU(FM)'s silence should be explored at the hearing. See Prehearing Order, FCC 92M-612, released May 27, 1992, at paragraph 4.

¹ Attachment A to these comments.

6. AM Station Silence Authority Issues. Station WEXI(AM), licensed to Taylor, was silent from on or about April 1, 1987, until its deletion on January 30, 1992. It went silent at the same time as the FM station. In an April 30, 1987, letter to the Commission, the licensee represented that the AM station suspended operations because it simulcast the FM programming. JBC alleges that since going off the air initially, Taylor kept the station dark for reasons solely within his control, and misrepresented to the Commission the reasons for remaining silent. Specifically, JBC cites numerous representations by Taylor wherein he states that the station equipment was being repaired or replaced, and that he awaited the FM station's return to the air since it was a financial impossibility for the AM station to be a stand alone operation. According to JBC, Commission records indicate that Taylor received temporary authority to remain silent through April 27, 1989. JBC submits that in light of the foregoing, and the fact that the AM station remained silent even though the FM station returned to the air, addition of the requested issues is warranted.

7. The Bureau believes that further inquiry is warranted with respect to the silence of the AM station. Initially the Bureau notes that it was advised of a subsequent authorization for WEXI(AM) to remain silent through August 30, 1989.²

² Counsel for the Mass Media Bureau was advised by the Field Operations Bureau that a telegram had been sent granting this further extension. There is no copy of the actual telegram in the license or associated files.

Moreover, the Bureau also received correspondence dated August 16, 1991, from Taylor, in response to a Bureau inquiry. Taylor's August 16 letter included a copy of a letter dated November 30, 1990, allegedly sent by Taylor to the Commission responding to an inquiry about WEXI(AM)'s silence.³ In his November 1990 letter, Taylor contended that when his silence authority ran out, he wrote requesting a further extension. He claims he also called the Commission and was assured that his request would be acted on in due course. In the letter he states that his updated justification for not going back on the air is that he can't spend the required \$25,000 to put the station on the air until his renewal for the station is granted. Taylor's August 16, 1991, letter to Bureau counsel repeats the prior stated reasons for remaining off the air and indicates that he is working to put the station on the air, which he assumed would occur in about six months. (Copies of Taylor's November 30, 1990, and August 16, 1991, letters are Attachments B1 and B2, to these Comments)

8. Taylor has continually altered his reasons for not putting the AM station back on the air in order to obtain further extension requests. One of the critical ongoing reasons for the AM station remaining silent was its apparent dependency on the FM station. However, even when the FM station returned to the air, the AM station remained silent. Indeed the AM station never went back on the air. In light of Taylor's continuing

³ There is no record of any such letter being received at the Commission and no "stamped in" copy has been found.

assertions that he was readying the station for its return to the air, and the fact that in January 1992, Taylor ultimately requested dismissal of his renewal application for the station without ever returning to the air, the Bureau agrees that further inquiry is warranted to determine whether Taylor made false statements with respect to the silence of the AM station.

9. Local Public Notice Issue. JBC alleges that no proof of local public notice of the filing of the WTRU(FM) renewal application was located in the station's public inspection file, in violation of Section 73.3580(h) of the Commission's Rules. Accordingly, JBC requests an issue.

10. The Bureau opposes addition of the requested issue. The single example of noncompliance with this provision of the rules does not warrant addition of a basic issue. However, this does not preclude consideration of the matter as it relates to Taylor's past broadcast record in the event he seeks a renewal expectancy. See Character Qualifications, 102 FCC 2d at 1232.

11. Public Programming Issue. JBC alleges that since WTRU(FM)'s local public file contains no issues/programs lists, it is an admission by Taylor that his station has broadcast no programs treating issues of community concern. Additionally, since the station was off the air for two years, it obviously broadcast no issue responsive programming during that period. Accordingly, JBC seeks issues to determine whether Taylor met his public interest programming obligations.

12. The Bureau opposes addition of issues inquiring into

WTRU(FM)'s apparent failure to provide issue responsive programming. There is no specific requirement that a licensee broadcast any issue responsive programming. Accordingly, addition of the requested issues is not warranted. However, in the event it is demonstrated that Taylor failed to provide such programming, Taylor will be at risk, since his failure to do so clearly will have an adverse effect on determining his entitlement to a renewal expectancy.

13. Environmental Misrepresentation Issue. This issue request is predicated upon inconsistent statements by Taylor concerning public safety and access to his AM antenna tower. Whereas Taylor indicated in an environmental statement dated September 22, 1988, that there was no risk of exposure to RF radiation levels because access to the antenna was impeded, in a letter dated January 23, 1989, he said a fence was required to meet ANSI guidelines regarding radio frequency radiation. JBC suggests that the motive for the differing representations was Taylor's need to justify continued silence authority.

14. Absent a satisfactory explanation, the Bureau agrees that the obviously inconsistent statements warrant further inquiry. However, the allegations actually relate to Taylor's candor vis a vis obtaining continued silence authority. Thus, the allegations should be subsumed under the silence authority issues. See Character Qualifications, 102 FCC 2d at 1209.

15. Rulemaking Abuse Issue. JBC alleges that Taylor misrepresented facts, lacked candor and abused the Commission's

rule-making processes in "orchestrating" the White City counterproposal to the Jupiter FM rulemaking. Specifically, JBC contends that when Taylor filed the counterproposal he did so to avoid competition to his station in Jupiter, Florida, and that Taylor misrepresented when he indicated his intention to apply for the station if allotted and to construct it. JBC claims that Taylor lacked the financial wherewithal to carry out his stated intention. In support, JBC furnishes an affidavit stating that Taylor's silent stations' facilities were a shambles, that when an allotment was made to White City, Taylor did not apply for it and that Taylor removed his AM station from the air.

16. The Bureau opposes addition of the requested issues. Section 1.229(d) of the Commission's Rules requires that allegations of fact be supported by affidavits of a person or persons having personal knowledge thereof. Here, JBC's allegations are speculative. Taylor affirmed his intention to apply for White City on November 28, 1988, and JBC has failed to demonstrate that Taylor's statement was false when made. Indeed, between the time that statement was made and June 30, 1989, when the Report and Order, 4 FCC Rcd 5295 (1989), amending the allotment to include White City was released, Taylor's renewal applications had been challenged by JBC. This fact would obviously impact on Taylor's ability to pursue a new unbuilt facility. Indeed, Jupiter completely ignores this significant consideration.

17. Financial Qualifications Issue. In support of its requested financial qualifications issue, JBC cites that Taylor never returned his AM station to the air, alleges that discharged station personnel were not paid their wages, claims that Taylor broadcast copyrighted programs without permission or payment of royalties and, for a period of time "leased the station."

18. Addition of a financial issue is not warranted. The dispositive fact is that WTRU(FM) is currently operating and JBC has failed to demonstrate, in accordance with the requirements of Section 1.229(d), that Taylor is not financially qualified to continue to operate his FM station.

19. Rule 73.3523 Issues. JBC seeks addition of Section 73.3523 and related issues based on the fact that Taylor offered consideration to JBC in the form of a consultancy agreement and joint venture proposal in return for the dismissal of its application. In further support, JBC submits a letter from Taylor in which he asserts his willingness to sign an affidavit stating that there was no linkage between the proposed contracts and any perceived FCC settlement.

20. The Bureau opposes addition of the requested issues. The bases for JBC's issue requests are documents which were initiated for the purpose of attempting to settle the proceeding short of hearing. Reliance upon these documents for the purpose of adding issues would contravene the Commission's policy favoring confidentiality of discussions in order to encourage

negotiations and settlement. See Central Texas Broadcasting Co., Ltd. 92 FCC 2d 914, 917 (Rev. Bd. 1982); Horne Industries, Inc. 91 FCC 2d 1193 (Rev. Bd. 1982); see also Fed. R. Evid. 408.

21. Strike Threat Issue. In support of its requested "strike threat" issue, JBC cites a statement made by Taylor in a letter to JBC principal Paul Levine. In that letter Taylor stated that if his renewal continued to be challenged he would consider filing a competing application for a TV station in which a JBC principal had an attributable interest. Although Taylor did not file a competing application, JBC contends that the threat was calculated to coerce JBC to withdraw its competing application.

22. The Bureau opposes addition of the requested issue. In his letter Taylor stated that "if the renewal of [his] radio licenses continues to be challenged, [he] would consider getting into the local TV business" and "would consider filing a competing application." JBC cites no other representations or "threats" by Taylor to challenge the TV renewal. Moreover, Taylor did not file a competing application for the TV facility. The fact that Taylor might have considered filing a competing application does not rise to the level of a "strike threat" warranting addition of the requested issue. James C. Sliger, 41 RR 2d 1541 (Rev. Bd. 1977) is inapposite. There a competing application was prepared and actual and repeated "threats" were made to file it.

23. Past Broadcast Record Issue. JBC alleges that Taylor's

past broadcast record as owner of Station WTRU(FM) and WEXI(AM) was so unusually poor that the stations' performance should be considered in the comparative evaluation of the applicants. In support, JBC incorporates all of the allegations raised in the instant petition to enlarge.

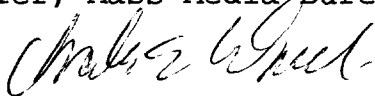
24. The Bureau opposes addition of the past broadcast record inquiry under the standard comparative issue. Comparative qualifications issues are no longer allowed. Character Qualifications, 102 FCC 2d at 1232. As the renewal applicant, Taylor is entitled to show that he merits a renewal expectancy. As the competing applicant, JBC is entitled to rebut any showing in that regard, and JBC does not need a threshold showing to adduce evidence of JBC's allegedly poor past broadcast record to rebut any claim of renewal expectancy. Indeed, the renewal expectancy "issue" is not a separate issue, but is a part of the comparative issue. Moreover, the Bureau is unaware of any case where an unusually poor past broadcast record issue has been added in a comparative renewal proceeding against a licensee.

25. Ineptness Issue. Again citing all of the allegations raised against Taylor, JBC also seeks an ineptness issue. The Bureau opposes addition of this issue. It is well established that an ineptness issue will be added only where an applicant's conduct has concerned matters of major significance and where the conduct has disclosed a pattern of carelessness and inadvertence. Hammonton Aviation, 58 FCC 2d 626 (1976); Dale A. Owens, 55 FCC

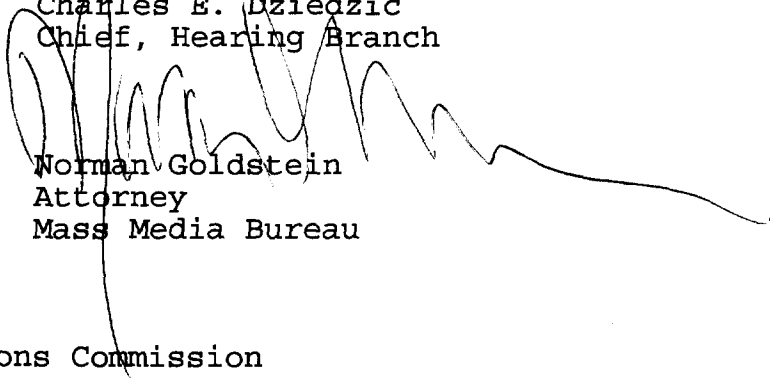
2d 371 (1975). JBC has failed to demonstrate that the alleged failures on the part of Taylor meet the standards for addition of the requested ineptness issue.

26. In sum, the Bureau supports addition of local public file and related misrepresentation issues and AM station silence authority issues. We oppose addition of the other requested issues.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Charles E. Dziedzic
Chief, Hearing Branch



Norman Goldstein
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June 10, 1992

4045-1-2
DUPLICATE

WILEY, REIN & FIELDING

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August 31, 1988

WRITER'S DIRECT DIAL NUMBER

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RECEIVED

AUG 31 1988

Mr. H. Walker Feaster, III
Secretary
Federal Communications Commission
Washington, D.C. 20554

FCC
FEE SECTION

Re: WKSJ(FM), Jupiter, Florida

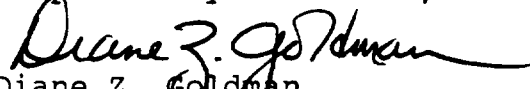
Dear Mr. Feaster:

Submitted herewith for filing in triplicate on behalf of U.S. Three Broadcasting Corporation, licensee of WKSJ(FM), Jupiter, Florida is an application to modify the construction permit of WKSJ(FM). The application is submitted pursuant to the FCC's directive in the Report and Order released February 10, 1988 (MM Docket No. 82-233), requiring WKYS(FM) to specify operation on Channel 258(A). This minor modification application was initially filed on May 2, 1988 (File No. BPH-880502IC) but was returned to the applicant on June 23, 1988 because page 2 of Section VII of the application with the applicant's signature was not included.

A check in the amount of \$500.00 is included herewith to cover the filing fees associated with this minor modification application.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,


Diane Z. Goldman

Enclosures

APPLICATION FOR CONSTRUCTION PERMIT FOR
COMMERCIAL BROADCAST STATION
(carefully read instructions before filing form)
Return only form to FCC

For Commission Use Only

File No.

Section I—GENERAL INFORMATION

1. Name of Applicant

U.S. Three Broadcasting Corporation
WKSJ (FM)

Street Address or P.O. Box

500 North Delaware Blvd.

City

Jupiter

State

FL

ZIP Code

33468

Telephone No. (Include Area Code)

(219) 484-0580

Send notices and communications to the following named person at the address below:

Name

Robert B. Taylor

Street Address or P.O. Box

2541 Goshen Road

City

Fort Wayne

State

IN

ZIP Code

46808

Telephone No. (Include Area Code)

(219) 484-0580

This application is for:

☐

AM

☒

FM

☐

TV

(a) Channel No. or Frequency:

258A, 99.5 mhz

(b) Principal Community:

Jupiter

City

State

FL

(c) Check one of the following boxes:

☐

Application for NEW station

☐

MAJOR change in licensed facilities; call sign:

☒

MINOR change in licensed facilities; call sign: WKSJ (FM)

☐

MAJOR modification of construction permit; call sign:

File No. of Construction Permit:

☐

MINOR modification of construction permit; call sign:

File No. of Construction Permit:

☐

AMENDMENT to pending application; Application file number:

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section I and those other portions of the form that contain the amended information.

Is this application mutually exclusive with a renewal application?

☐

Yes

☒

No

If Yes, state:

Call letters:

Community of License:

City

State

Section V-B

FM BROADCAST ENGINEERING DATA

For Commission Use Only

File No. _____

ASB Referral Date _____

Referred by _____

Name of Applicant

U.S. Three Broadcasting Corporation

Call letters (if issued)

WKSJ (FM)

Is this application being filed in response to a window?

☐ Yes ☒ No

If yes, specify closing date: _____

Purpose of Application (check appropriate box(es))

☐ Construct a new (main) facility☐ Construct a new auxiliary facility☐ Modify existing construction permit for main facility☐ Modify existing construction permit for auxiliary facility☒ Modify licensed main facility☐ Modify licensed auxiliary facility

If purpose is to modify, indicate below the nature of change(s) and specify the file number(s) of the authorizations affected.

☐ Antenna supporting-structure height☐ Effective radiated power☐ Antenna height above average terrain☐ Frequency☐ Antenna location☐ Class☐ Main studio location☒ Other (summarize briefly) Install new antenna for new frequency. Replace with equal type.

File Number(s)

MM Docket 87-233

1. Allocation:

Channel No.	City	Principal Community to be served: County	State	Class (check only one box below)
258A	Jupiter	Palm Beach County	Florida	<input checked="" type="checkbox"/> A <input type="checkbox"/> B1 <input type="checkbox"/> B
				<input type="checkbox"/> C2 <input type="checkbox"/> C1 <input type="checkbox"/> C

2. Exact location of antenna.

(a) Specify address, city, county and state. If no address, specify distance and bearing relative to the nearest town or landmark.

500 North Delaware Blvd., Jupiter, FL 33458

(b) Geographical coordinates (to nearest second): If mounted on element of an AM array, specify coordinates of center of array. Otherwise, specify tower location. Specify South Latitude or East Longitude where applicable; otherwise, North Latitude or West Longitude will be presumed.

Latitude 26 ° 56 ' 22 " Longitude 80 ° 07 ' 04 "3. Is the supporting structure the same as that of another station(s) or proposed in another pending application(s)? ☐ Yes ☒ No

If Yes, give call letter(s) or file number(s) or both. _____

If proposal involves a change in height of an existing structure, specify existing height, above ground level, including antenna, all other appurtenances, and lighting, if any. _____

4. Does the application propose to correct previous site coordinates?

☐ Yes ☒ No

If Yes, list old coordinates.

Latitude _____° _____' _____"

Longitude _____° _____' _____"

5. Has the FAA been notified of the proposed construction? N/A

☐ Yes ☒ No

Exhibit No.

If Yes, give date and office where notice was filed and attach as an Exhibit a copy of FAA determination, if available.

Date _____ Office where filed _____

6. List all landing areas within 8 km of antenna site. Specify distance and bearing from structure to the nearest point of the nearest runway.

Landing Area

Distance (km)

Bearing (degrees True)

(a) _____

(b) _____

7. (a) Elevation: (to the nearest meter) NO CHANGE FROM EXISTING LICENSE.

(1) of site above mean sea level; _____ meters

(2) of the top of supporting structure above ground (including antenna, and all other appurtenances, and lighting, if any); and _____ meters

(3) of the top of supporting structure above mean sea level [(a)(1) + (a)(2)] _____ meters

- (b) Height of radiation center: (to the nearest meter) H - Horizontal V - Vertical

(1) above ground _____ meters (H)

_____ meters (V)

(2) above mean sea level [(a)(1) + (b)(1)] _____ meters (H)

_____ meters (V)

(3) above average terrain _____ meters (H)

_____ meters (V)

Exhibit No.

8. Attach as an Exhibit sketch(es) of items 7(a), 7(b)(1) and 7(b)(2) above. If mounted on an AM directional-array element, specify heights and orientations of all array towers, as well as location of FM radiator.

9. Effective Radiated Power: NO CHANGE FROM EXISTING LICENSE.

- (a) ERP in the horizontal plane

3.0 kw (H*)

3.0 kw (V*)

- (b) Is beam tilt proposed?

☐ Yes ☒ No

Exhibit No.

If Yes, specify maximum ERP in the plane of the tilted beam, and attach as an Exhibit a vertical elevational plot of radiated field.

_____ kw (H*)

_____ kw (V*)

* Polarization

10. Is a directional antenna proposed?

☐ Yes ☒ No
Exhibit No.

If Yes, attach as an Exhibit a statement with all data specified in 47 C.F.R. Section 73.316(d), and if applicable Section 73.213(c), including plot(s) and tabulations of horizontal and vertical radiated components in dBk and relative field.

11. Will the proposed facility satisfy the requirements of 47 C.F.R. Sections 73.315(a) and (b)?

☒ Yes ☐ No
Exhibit No.

If No, attach as an Exhibit a request for waiver and justification therefor, including amounts and percentages of population and area that will not receive 3.16 mV/m service.

12. Will the main studio be within the boundaries of the principal community to be served?

☒ Yes ☐ No
Exhibit No.

If No, attach as an Exhibit justification to 47 C.F.R. Section 73.1125.

13. (a) Does the proposed facility satisfy the requirements of 47 C.F.R. Section 73.207?

☒ Yes ☐ No

(b) If the answer to (a) is No does 47 C.F.R. Section 73.213 apply?

☐ Yes ☒ No
Exhibit No.

(c) If the answer to (b) is Yes, attach as an Exhibit a justification, including a summary of any previous waivers.

Exhibit No.

(d) If the answer to (a) is No and the answer to (b) is No, attach as an Exhibit a statement describing the short spacing(s) and how it or they arose.

14. Are there: (a) within 60 meters of the proposed antenna, any proposed or authorized FM or TV transmitters, or any nonbroadcast (except citizens band or amateur) radio stations; or (b) within the blanketing contour, any established commercial or government receiving stations, cable head-end facilities, or populated areas; or (c) within ten (10) kilometers of the proposed antenna, any proposed or authorized FM or TV transmitters which may produce receiver-induced intermodulation interference?

☐ Yes ☒ No

Exhibit No.

If Yes, attach as an Exhibit a description of any expected, undesired effects of operations and remedial steps to be pursued if necessary, and a statement accepting full responsibility for the elimination of any objectionable interference (including that caused by receiver-induced or other types of modulation) to facilities in existence or authorized or to radio receivers in use prior to grant of this application. (See 47 C.F.R. Sections 73.315(b), 73.316(e) and 73.318.)

15. Attach as an Exhibit a 7.5 minute series U.S. Geological Survey topographic quadrangle map that shows clearly, legibly, and accurately, the location of the proposed transmitting antenna. This map must comply with the requirements set forth in Instruction V. The map must further clearly and legibly display the original printed contour lines and data as well as latitude and longitude markings, and must bear a scale of distance in kilometers.

Exhibit No.

NO CHANGE FROM EXISTING LICENSE.

16. Attach as an Exhibit (name the source) a map which shows clearly, legibly and accurately, and with the original printed latitude and longitude markings and a scale of distance in kilometers:

NO CHANGE FROM EXISTING LICENSE.

Exhibit No.

(a) the proposed transmitter location, and the radials along which profile graphs have been prepared;

(b) The 3.16 mV/m and 1 mV/m predicted contours; and

(c) the legal boundaries of the principal community to be served.

17. Specify area in square kilometers (1 sq. mi. = 2.59 sq. km.) and population (latest census) within the predicted 1 mV/m contour.

NO CHANGE FROM EXISTING LICENSE.

Area _____ sq. km.

Population _____

Exhibit No.

18. For an application involving an auxiliary facility *only*, attach as an Exhibit a map (*Sectional Aeronautical Chart or equivalent*) that shows clearly, legibly, and accurately, and with latitude and longitude markings and a scale of distance in kilometers:

N/A

- (a) the proposed auxiliary 1 mV/m contour; and
- (b) the 1 mV/m contour of the licensed main facility for which the applied-for facility will be auxiliary. Also specify the file number of the license.
19. Terrain and coverage data (*to be calculated in accordance with 47 C.F.R. Section 73.313*)
- NO CHANGE FROM EXISTING LICENSE.
- Source of terrain data: (*check only one box below*)

☐

Linearly interpolated 30-second database

☐

7.5 minute topographic map

(Source: _____)

☐

Other (briefly summarize)

Radial bearing
(degrees True)Height of radiation
center above average
elevation of radial
from 3 to 16 km
(meters)

Predicted Distances

To the 3.16 mV/m contour
(kilometers)To the 1 mV/m contour
(kilometers)

.	_____	_____	_____
0	_____	_____	_____
45	_____	_____	_____
90	_____	_____	_____
135	_____	_____	_____
180	_____	_____	_____
225	_____	_____	_____
270	_____	_____	_____
315	_____	_____	_____

*Radial through principal community, if not one of the major radials. This radial should NOT be included in calculation of HAAT.

20. Environmental Statement (*See 47 C.F.R. Section 1.1301 et seq.*)

Would a Commission grant of this application come within Section 1.1307 of the FCC Rules, such that it may have a significant environmental impact?

☐Yes ☒ No

Exhibit No.

If you answer Yes, submit as an Exhibit an Environmental Assessment required by Section 1.1311.

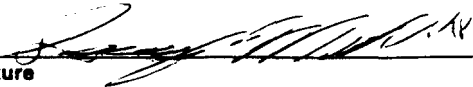
If No, explain briefly why not. Because it's an existing facility.

CERTIFICATION

certify that I have prepared this Section of this application on behalf of the applicant, and that after such preparation, I have examined the foregoing and have found it to be accurate and true to the best of my knowledge and belief.

Gary A. Minker
Name (Typed or Printed)

4/25/88
Date


Signature

(407) 793-6921
Telephone No. (Include Area Code)

Consulting Engineer
Relationship to Applicant (e.g., Consulting Engineer)

4271 122 Drive N.
Royal Palm Beach, FL 33411

Address (Include ZIP Code)

Section VI

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. Does the applicant propose to employ five or more full time employees?

☐ Yes ☐ No

If Yes, the applicant must include an EEO program called for in the separate Model EEO Program (FCC 396-A).

Section VII

CERTIFICATIONS

1. Has or will the applicant comply with the public notice requirement of Section 73.3580 of the Commission's Rules?

☐ Yes ☐ No

2. Has the applicant reasonable assurance, in good faith, that the site or structure proposed in Section V of this form, as the location of its transmitting antenna, will be available to the applicant for the applicant's intended purpose?

☐ Yes ☐ No
Exhibit No.

If No, attach as an Exhibit, a full explanation.

3. If reasonable assurance is not based on applicant's ownership of the proposed site or structure, applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure.

Name of Person Contacted

(_____) _____
Telephone No. (include area code)

Person contacted: (check one box below)

☐ Owner ☐ Owner's Agent ☐ Other (specify)

Applicant's Signature

Date

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

The **APPLICANT** represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the **APPLICANT** has a continuing obligation to advise the Commission, through amendments, or any substantial and significant changes in information furnished.

**WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT.
U.S. CODE, TITLE 18, SECTION 1001.**

I certify that the statements in this application are true, complete and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this 17th day of August, 19 88.

U.S. Three Broadcasting Corporation
Name of Applicant

Robert B. Taylor
Signature

Robert B. Taylor

President

Title

**FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT
AND THE PAPERWORK REDUCTION ACT**

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The principal purpose for which the information will be used is to determine if the benefit requested is consistent with the public interest. The staff, consisting variously of attorneys, analysts, engineers, and application examiners, will use the information to determine whether the application should be granted, denied, dismissed, or designated for hearing. If all the information requested is not provided, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Accordingly, every effort should be made to provide all necessary information. Your response is required to obtain the requested authority.

**THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3)
AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.**

November 30, 1990

Robert B. Taylor, Licensee
WEXI (AM)
500 N. Delaware Blvd.
Jupiter, FL 33458

Larry D. Eads
Chief, Audio Services Division
Mass Media Bureau

Dear Mr. Eads:

This is in response to your letter to U.S. Two Broadcasting Corporation, the former licensee of WEXI (AM)(formerly WTRU-AM), 1000 kHz, Jupiter, Florida.

Your letter alleges that WEXI has been off the air without FCC authority. This is not true. WEXI has received FCC authorization to be silent. A copy of the FCC authority is enclosed. When the most recent FCC authority ran out last year, I as licensee wrote to the AM branch requesting an extension. Soon after, in a follow-up telephone call to the AM branch, I was told by a female FCC staffer that my written request had been received, was being processed and would be acted on in due course.

As you requested, here is my up-dated justification for continuing to remain off the air: I estimate at least \$25,000 worth of repairs to WEXI transmitting equipment is needed before WEXI can resume broadcasting. I can't spend that money if I don't have a renewed FCC license for WEXI. On September 22, 1988, I filed for renewal of the WEXI license on Form 303-S. On September 26, 1988, the FCC accepted the renewal application for filing (copy of FCC card enclosed).

I hereby request FCC authority to keep WEXI silent until the operating license for WEXI is renewed by the FCC. When the renewal is issued, I will invest the money necessary in repairs and put WEXI back on the air.

Sincerely,

Robert B. Taylor
Licensee, WEXI (AM)

RBT/ms

enc.